

A RESOLUTION

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

01-*R*-0054

**A RESOLUTION AUTHORIZING PAYMENT IN THE
AMOUNT OF \$22,044.06 IN SETTLEMENT OF THE CLAIM
OF MONTINE WILBURN AGAINST THE CITY OF
ATLANTA**

WHEREAS, Montine Wilburn has filed a claim against the City of Atlanta seeking damages arising out of several occurrences of sewer back ups on her property located at 2329 Colorado Trail, SW; and

WHEREAS, the property owned by Montine Wilburn has been damaged due to several occurrences of sewer back ups due to a blockage in the City's mainline, which the City had knowledge of prior to the overflows that occurred on May 11, 1998 through May 12, 1998, specifically; and

WHEREAS, the City of Atlanta was on notice of said nuisance and yet the City failed to abate said nuisance; and

WHEREAS, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

WHEREAS, the claimant has asserted damages in the amount of \$22,044.06 and has agreed to accept this sum in full and complete satisfaction and settlement of her claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of Montine Wilburn be settled for the sum of \$22,044.06.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$22,044.06 be paid by the City of Atlanta in satisfaction of any and all claims Montine Wilburn owner of property located at 2329 Colorado Trail, SW may have stemming from damages sustained to her property on February 2, 1998 and May 11 through 12, 1998.

BE IT FURTHER RESOLVED that the Chief Financial Officer be and hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

E-7

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 98L0450

Date: December 14, 2000

Claimant /Victim MONTINE WILBURN

BY: (Atty)(Ins. Co.) _____

Address: 2329 Colorado Trail, SW, Atlanta, Georgia 30331

Subrogation: _____ Claim for Property damage \$ 22,044.06 Bodily Injury \$ _____

Date of Notice: 06/12/98 Method: Written, proper X Improper _____

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 02/02/98 & 05/11-12/98 Place: 2329 Colorado Trail, SW

Department Public Works Division: Sewer Operations

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant's property has been damaged due to several occurrences of sewer back ups due to a blockage in the mainline. The City had notice of the problem prior to the occurrences on May 11 through 12, 1998.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____

Pictures X Diagrams _____ Reports: Police _____ Dept Report X Other _____

Traffic citations issued: City Driver _____ Claimant Driver _____

Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial _____

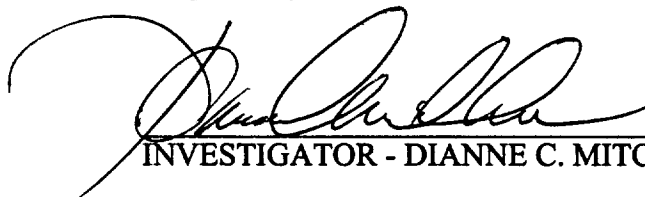
Improper Notice _____ More than Six Months _____ Other _____ Damages reasonable X

City not involved _____ Offer rejected _____ Compromise settlement _____

Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____

Claimant Negligent _____ City Negligent X Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 22,044.06 Adverse _____ Account charged: 1A01 _____ 2J01 X 2H01 _____

Claims Manager: [Signature] Concur/date 12-14-00

Committee Action: _____ Council Action _____

COUNCIL OF THE CITY OF ATLANTA
CLERK OF COUNCIL
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

Today's Date: 6-8-98

ENTERED - 6-24-98 - SB
98L0450 - ANTHONY OATIS

Dear Clerk of Council:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 60,000.00 property and/or \$ _____ bodily injury for which I contend the City is liable.

1. Date of incident May 11, 12, 1998
(month/day/year)
2. Police called: _____
Yes No
3. Location of incident 2329 Colorado Trail, Atlanta, GA 30331
4. Name of your insurance company: State Farm Policy No. 11-E27718-9
5. State what and how incident occurred: Street collapsed due to bad pipes causing water to flood basement/den. Damaging totally walls, doors, carpet, piano, tv, stereo, washer/dryer, telephone wires, records, bar, sofa, table, record stand, articles in storage closet, lost days from work
6. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!
7. The registered owner must make the claim for vehicle damages. complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).
- Your vehicle: _____
(make) (year) (tag number) (driver's name)
- City vehicle: _____
(make) (City driver's name) (department/bureau)
8. Witness: _____
(name) (address) (telephone number)
9. The acknowledgement of this claim in no way waives the Governmental immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).
10. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Montine Wilburn
(claimant's name)
2329 Colorado Tr.
(address)
Atlanta Ga
(city and state)
404-529-2005 404-344-7258
(work number) (home number)

5273351